IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.8068 of 2003

Balasaheb Bhimrao Bandai . ...Petitioner

Versus

President, Shri Sant Damaji

Apang Seva Mandal & ors. .. ...Respondents

Ms Poonam P. Bhosale for petitioner

Mr.Vaibhav Mane for respondent nos.1 to 3

CORAM : P.V.KAKADE, J.

DATE : 17th MARCH, 2006

P.C.:

1. Heard the learned counsel for the petitioner as well as for the respondent nos.1 to 3.

2. The petitioner has preferred this petition against the order passed by Presiding Officer, School Tribunal, Solapur dated 28.2.2003 partly allowing the appeal and issuing directions to the respondents to pay

the appellant six months' salary with allowances within the period of six months from the date of order. However, plea for reinstatement and full backwages came to be rejected. Hence the present appeal.

3. The Petitioner was appointed as an Asstt. Teacher in Respondent No.2 School allegedly in a clear and permanent vacancy from 1.9.1989. It is the case of the petitioner that on completion of two years service he had become permanent employee of the School and had also worked as Head Master for one year i.e. 1991-92. In the year 1994-95 he was sent for training. He completed the training and resumed his duties on 15.5.1995, however, he was not allowed to join his duty. It is also alleged that respondent wanted to execute an agreement with the petitioner and obtained his signature on a blank paper and started demanding 30% amount from his salary, when he has refused to do so there was oral termination of his services.

. Thereafter the petitioner filed civil suit in the Court of Civil Judge, Mangalwedha. Ultimately the plaint was returned to the petitioner and then he approached the School Tribunal, who after hearing both the parties

rejected the plea for reinstatement and full backwages but granted six months salary invoking the powers under Section 11(2)(E) of the MEPS Act, and disposed of the appeal.

4. At the outset, it may be noted that though the specific issue is not raised by the Tribunal, it is obvious that the alleged termination was dated 15.5.1995 whereas the appeal came to be filed before the Tribunal on 16.8.2002. Moreover, there was also unexplained delay between the period from the date of return of the plaint on 9.2.2001 and filing of the appeal before the Tribunal on 16.8.2002 i.e. after the lapse of one and half year. Apart from these aspects, the petitioner has also not brought on record the appointment order in order to determine what were the conditions of service nor has produced any proof to the effect that there was completion of continuous service of two years with the respondents.

. The Tribunal has observed that the termination of the petitioner was not proper at the hands of the Management, however, no cogent reasons are given by the Tribunal in support of such finding except for the

reference to the provision of Section 4(6) of the MEPS Act to the effect that no employee of the Private School shall be dismissed or removed from his service except in accordance with the provisions of the said Act. He has also referred to the Rules 28, 36 and 47 of the said Act, however, has not indicated as to how those are applicable to the present set of facts. Be as it may, the fact remains that the Tribunal has also found that the petitioner is not entitled to the relief of either reinstatement or payment of backwages, which in my view is correct finding. In other words, no interference is required in this matter for want of sufficient documentary evidence to show that the petitioner would be entitled for invocation of provision of 4(6) of the MEPS Act and as such the petition is devoid of any merits and stands dismissed with no order as to costs.